

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

CYNTHIA D. JOHNS,
*Individually and on
behalf of all others
similarly situated,*

Plaintiff,

Case No. 3:24-cv-210

vs.

ACK HOME CARE LLC,
doing business as
SENIOR HELPERS OF
DAYTON, *et al.*,

District Judge Michael J. Newman
Magistrate Judge Caroline H. Gentry
(mediation referral)

Defendants.

ORDER: (1) GRANTING IN PART AND DENYING IN PART THE PARTIES' JOINT MOTION REQUESTING REFERRAL TO MEDIATION AND STAY OF PROCEEDINGS (Doc. No. 12); (2) REFERRING THE CASE TO MAGISTRATE JUDGE CAROLINE H. GENTRY FOR THE PURPOSE OF HOLDING A MEDIATION; (3) REQUIRING THE PARTIES TO PARTICIPATE IN GOOD FAITH IN THE MEDIATION; (4) STAYING THIS MATTER PENDING THE PARTIES' MEDIATION; (5) REQUIRING THE PARTIES TO FILE A JOINT STATUS REPORT WITHIN 7 DAYS FOLLOWING MEDIATION; (6) DENYING WITHOUT PREJUDICE THE PARTIES' REQUEST TO TOLL THE STATUTE OF LIMITATIONS ON PLAINTIFFS' COLLECTIVE ACTION FLSA CLAIMS; AND (7) SETTING THE PARTIES' BRIEFING SCHEDULE ON THE TOLLING ISSUE IF THEY CHOOSE TO REFILE THEIR REQUEST TO TOLL

This matter is before the Court upon the parties' joint motion requesting referral to mediation and stay of proceedings. Doc. No. 12. The parties have requested (1) to be referred to mediation with Magistrate Judge Caroline H. Gentry; (2) to stay the litigation pending mediation; (3) to be required to submit a status report within seven days after the conclusion of mediation; and (4) tolling the statute of limitations on Plaintiffs' collective action FLSA claims until thirty

days following submission of the joint status report. *Id.* at PageID 111. For good cause shown, the Court **GRANTS IN PART AND DENIES IN PART** the joint motion.

The Court hereby **REFERS** this case to Magistrate Judge Caroline H. Gentry for mediation. The Court **ORDERS** the parties to participate in good faith in the mediation. The date for the mediation shall be arranged directly with Magistrate Judge Gentry. The litigation is hereby **STAYED** pending the parties' mediation. The Court **REQUIRES** the parties to file a joint status report within **7 days** following the conclusion of mediation.

Finally, the Court questions whether it has jurisdiction to toll the statute of limitations on Plaintiffs' collective action FLSA claims. The Court **DENIES WITHOUT PREJUDICE** the parties' request to toll the statute of limitations. The parties shall have **10 days** to brief the tolling issue and refile their request, should they choose to do so.

IT IS SO ORDERED.

December 11, 2024

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge